

FILED 15 NOV '23 10:27 USDG-ORP

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

for the

District of _____

Division _____

Case No. 3:23-cv-1690 AN

(to be filled in by the Clerk's Office)

Joshua Lipka, Lipka Family, Rayna Montgomery
 Montgomery, Plaintiff(s) Family, Et Al
 (Write the full name of each plaintiff who is filing this complaint.
 If the names of all the plaintiffs cannot fit in the space above,
 please write "see attached" in the space and attach an additional
 page with the full list of names.)

-v-

Jury Trial: (check one) ☒ Yes ☐ No

City of Portland Police Officers Gregory
 Adrian, Jerrald Higinbotham, Lt Passadoc
 Police Chief, Mayor of Portland, Et Al
 Sgt. Hansen Defendant(s)

(Write the full name of each defendant who is being sued. If the
 names of all the defendants cannot fit in the space above, please
 write "see attached" in the space and attach an additional page
 with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Joshua S. Lipka, Lipka Family, Bayna
 Address Montgomery, Montgomery family
P.O. BOX 416 Bly, Or 97622
City State Zip Code
 County Klamath
 Telephone Number 503-428-8686, 541-219-0333
 E-Mail Address joshualipka47@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name ~~Gregory~~ GREGORY Adrian (DPSST ~~28130~~)
 Job or Title (if known) Portland Police Off (28173)
 Address 1120 SW 5th Ave
Portland OR 97204
City State Zip Code
 County Multnomah
 Telephone Number _____
 E-Mail Address (if known) _____

☒ Individual capacity ☒ Official capacity

Defendant No. 2

Name Terrold Higginborn
 Job or Title (if known) Portland Police Officer
 Address 1120 SW 5th Ave
Pdx or 97204
City State Zip Code
 County Multnomah
 Telephone Number _____
 E-Mail Address (if known) _____

☒ Individual capacity ☒ Official capacity

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Defendant No. 3

Name

Mr. Passadore

Job or Title (if known)

Lt Portland Police

Address

1120 SW 5th Ave

Portland

City

Or

State

97204

Zip Code

County

Multnomah

Telephone Number

E-Mail Address (if known)

☒ Individual capacity☒ Official capacity

Defendant No. 4

Name

Portland Police Chief

Job or Title (if known)

1120 SW 5th Ave

Address

Portland

City

Or

State

97204

Zip Code

County

Multnomah

Telephone Number

E-Mail Address (if known)

☐ Individual capacity☒ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

False Arrest, False imprisonment Malicious Prosecution, Retaliatory Prosecution, Fabrication of evidence, Profiling, Discrimination, Excessive force, Denied equal protection of law, Slander & defamation, loss of consortium, violation of 4th, 5th, 6th, 8th, 14th & 15th amendment violations of the Constitution.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur? In City of Portland, 4328 SE 63rd Ave Plaintiff's home.
- B. What date and approximate time did the events giving rise to your claim(s) occur? Dec 17 2017, around 8am
- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did ~~what~~? Was anyone else involved? Who else saw what happened?) SEE Attachment - 4 of 6B

Attachment : C

The defendants in question violated the constitutional rights of citizens of the State of Oregon, were under investigation by IA.

Police officers of the city of Portland did profile & discriminated against Plaintiff J. Lipka when they assumed Plaintiff had criminal history, officers proceeded to commit an illegal search & seizure of Mr. Lipka's home without a warrant. Officers unlawfully arrested Mr. Lipka, threatened Mr. Lipka with the possible use of deadly force at gun point in his home, assaulted Mr. Lipka with a make shift spear hitting him in the groin area causing him to fall to the floor for about 5 mins, denied Mr. Lipka medical attention.

Officers were told they could not search, they removed Mr. Lipka from the home & assaulted him further while searching him outside @ a cruiser, slamming him onto the hood, kicking the inside of his legs, slandering & defamed Lipka when asking neighbors to record him while being searched & saying what he was arresting Lipka for.

Officer Adrian returned to the home & started giving false legal advice trying to get a legal search, telling roommate that they could give permission for them to search belongings they believed were J. Lipka's.

Officers violated Mr. J. Lipka's Miranda rights failing to properly advise or falsified police reports, evidence to justify their illegal actions. When police were made aware of these issues Ofc Adrian said, "I'm charging you, you're going to jail, take it up in a civil suit!"

Ofc Adrian knew his actions were illegal & to resist would be a futile.

The actions & false testimony of these officers resulted in a ~~30~~ 30 month conviction. Plaintiff served the full sentence. In Sep or Oct 2021 The Oregon Court of Appeals overturned all convictions do to multiple constitutional violations & remanded to lower courts. The lower courts conceded & choose not to retry the case.

This is a brief statement but not a complete brief of facts. The city of Portland was served notice of Tort & said their investigating allegations, plaintiffs believe their stalling to prevent plaintiffs from filing a lawsuit.

** 5yrs Probation & 2yr PPS

* Oregon v. Lipka Appellant case A167990

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Testicular Pain, Bruising, Abrasions to wrist, Head trauma. Scarring.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Plaintiff seeks \$20,000,000. Plaintiff is still incurring losses or damages as a result of the incident. Plaintiff lost his home of 20 yrs, loss social & economic standing in the community. Plaintiff has never been homeless & was forced into homelessness by the state as a result of the illegal actions of officers & the state. Plaintiff lost personal assets exceeding \$500,000. Has been left permanently disfigured by an attempted murder while homeless. Has health issues as a result of homelessness. Plaintiff has been maliciously prosecuted since released from his unlawful incarceration, denied equal protection of law when a victim of crimes & this has been done to prevent Plaintiff from seeking relief per § 1983 suit. Plaintiff has been a continued victim of police harassment, false seizure of property by police since his release. In addition to loss of consortium.

The basis for these claims are actual loss, & court precedent setting unlawful incarceration @ 1 mil a year in addition to future medical cost & continued loss to date.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Sep 1, 2023

Signature of Plaintiff

Printed Name of Plaintiff

Joshua S. Lipka
Joshua S. Lipka

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

503-428-8686
joshualipka47@gmail.com